

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LORI FREITAS and KAYLEE
MCWILLIAMS individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

GEISINGER HEALTH PLAN and
SOCRATES, INC.,

Defendants.

Case No. _____

DEFENDANTS' NOTICE OF REMOVAL

Defendants, Geisinger Health Plan and Socrates, Inc., by and through their counsel, Buchanan Ingersoll and Rooney PC, hereby remove this action from the Court of Common Pleas of Lycoming County, Pennsylvania to the United States District Court for the Middle District of Pennsylvania, under 28 U.S.C. §§ 1331, 1441, and 1446, and in support state as follows:

1. This action was filed in the Court of Common Pleas of Lycoming County, Pennsylvania and styled *Lori Freitas and Kaylee McWilliams, individually and on behalf of all others similarly situated v. Geisinger Health Plan and Socrates, Inc.*, Docket Number No. 20-0556. A copy of all process, pleadings, and orders served on Defendants are attached as **Exhibit 1**.

2. Geisinger Health Plan was served with the Complaint and summons on June 17, 2020; Socrates, Inc. was served with the Complaint and summons on June 22, 2020. *See* Exhibit 1. Defendants, collectively, are filing this Notice of Removal within thirty days after receiving a copy of the Complaint and summons in accordance with 28 U.S.C. §1446(b).

3. Plaintiffs bring this putative class action on behalf of themselves and others who are purportedly similarly situated, under the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. § 1001, *et seq.*, (“ERISA”), “to recover benefits due under an employees benefit plan and to recover costs, attorneys fees and relief as provided under ERISA.” (Compl. ¶ 1).

4. Plaintiffs were enrolled in the Geisinger Health Plan as subscribers by virtue of being members of their respective employer groups, which agreed to remit premiums for coverage payable to the plan. Plaintiffs allege that they were involved in injury-causing events and received benefits under health insurance policies issued by the Geisinger Health Plan.¹ (Compl. ¶¶ 17-18; 23-24.) They further allege that the Geisinger Health Plan—through its agent, Socrates, Inc., which specializes in healthcare subrogation services—sought “reimbursement” under the Geisinger Health Plan from Plaintiffs’ respective proceeds of the tort

¹ The Geisinger Health Plan is a non-for-profit corporation that operates a provider network of primary/specialty care physicians, hospitals, and urgent/convenient care locations and serves nearly 600,000 members in Pennsylvania.

settlements. (Compl. ¶¶ 13, 29.) Plaintiffs allege that they have already made payment to Defendants in response to the reimbursement demands. (Compl. at ¶ 35.)

5. Plaintiffs also assert other causes of action under ERISA against Defendants, including for various purported breaches of fiduciary duty and ERISA common law and they seek declaratory relief. (Compl. ¶¶ 77-206; 222-351.)

6. Federal question jurisdiction exists under 28 U.S.C. § 1331 because Plaintiffs—who are each members of a welfare benefit plan regulated by ERISA—seek relief in the form of “benefits due” under ERISA. *See Levine v. United Healthcare Corp.*, 402 F.3d 156, 163 (3d Cir. 2005) (“Where, as here, plaintiffs claim that their ERISA plan wrongfully sought reimbursement of previously paid health benefits, the claim is for ‘benefits due’ and federal jurisdiction under section 502(a) of ERISA is appropriate.”).

7. This Court has supplement jurisdiction under 28 U.S.C. §1367 with respect to Plaintiffs’ remaining claims to the extent they are not brought under ERISA (Counts I and VIII) because they form part of the same case or controversy as Plaintiffs’ ERISA-related claims.

8. The venue of this removal is proper under 28 U.S.C. §1441(a) because the United States District for the Middle District of Pennsylvania embraces Lycoming County, Pennsylvania, the place where the state court action is pending.

9. All Defendants who have been served by Plaintiffs have joined in the removal of this action.

10. Copies of this Notice of Removal and Notice of Filing Notice of Removal to the Court of Common Pleas of Lycoming County, Pennsylvania are being served on all parties to this action.

11. Nothing in this Notice shall be interpreted as a waiver or relinquishment of Defendants' rights to assert any defense, including, without limitation, by way of a motion to dismiss or any pre-answer motion under Rule 12 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendants, Geisinger Health Plan and Socrates, Inc. hereby remove the above action pending against it in the Court of Common Pleas of Lycoming County, Pennsylvania to the United States District Court for the Middle District of Pennsylvania.

Dated: July 17, 2020

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

By: /s/Thomas G. Collins

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*Counsel for Defendants,
Geisinger Health Plan and Socrates, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2020 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to the following:

Charles Kannebecker, Esq.
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Milford, PA 18337
kannebecker@wskllawfirm.com

Counsel for Plaintiff

And I hereby certify that on July 17, 2020 I caused a copy of the foregoing to be sent via U.S. First Class mail to the following:

Thomas D. Heap
Prothonotary/Clerk of Courts
Lycoming County Court of Common Pleas
48 West Third Street, 1st Floor
Williamsport, PA 17701

/s/Thomas G. Collins

Thomas G. Collins

*Counsel for Defendants,
Geisinger Health Plan and Socrates, Inc.*